
Volume 14 Issue 6
TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

9 VAC 20-100-10 et seq. Yard Waste Composting Facility Regulations (REPEALED).

9 VAC 20-101-10 et seq. Vegetative Waste Management and Yard Waste Composting Regulations.

Statutory Authority: §§ 10.1-1402 and 10.1-1408.1 of the Code of Virginia.

Effective Date: January 7, 1998.

CHAPTER 101.

VEGETATIVE WASTE MANAGEMENT AND YARD WASTE COMPOSTING REGULATIONS.

PART I.

DEFINITIONS.

9 VAC 20-101-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise. Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia defines words and terms that supplement those in this chapter. The Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 et seq., define additional words and terms that supplement those in the statute and this chapter. When the statute, as cited, and the solid waste management regulations, as cited, define a word or term differently, the definition of the statute is controlling.

"Agricultural operation" means any operation devoted to the bona fide production of crops, animals, or fowl, including but not limited to the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery and floral products; and the production and harvest of products from silviculture activity.

"Board" means the Virginia Waste Management Board.

"Building" means an enclosed structure which has no open side.

"Clean wood" means uncontaminated natural or untreated wood. Clean wood includes but is not limited to byproducts of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders, or resins; or painted, stained or coated.

"Compost" means a stabilized organic product produced by a controlled aerobic decomposition process in such a manner that the product can be handled, stored, or applied to the land without adversely affecting public health or the environment.

"Composting" means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

"Decomposed vegetative waste" means a stabilized organic product produced from vegetative waste by a controlled natural decay process in such a manner that the product can be handled, stored, or applied to the land without adversely affecting public health or the environment.

"Decomposition of vegetative waste" means a controlled natural process, active or passive, which results in the decay and chemical breakdown of vegetative waste.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Disclosure statement" means a sworn statement or affirmation, in such form as may be required by the director, which includes:

1. The full name, business address, and social security number of all key personnel;

-
2. The full name and business address of any entity, other than a natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of 5.0% or more;
 3. A description of the business experience of all key personnel listed in the disclosure statement;
 4. A listing of all permits or licenses required for the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past 10 years;
 5. A listing and explanation of any notices of violation, prosecutions, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations or enforcement actions of any sort by any state, federal or local authority, within the past 10 years, which are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste by any key personnel, and an itemized list of all convictions within 10 years of key personnel of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia; racketeering; or violation of antitrust laws;
 6. A listing of all agencies outside the Commonwealth which have regulatory responsibility over the applicant or have issued any environmental permit or license to the applicant within the past 10 years in connection with the applicant's collection, transportation, treatment, storage or disposal of solid waste or hazardous waste;
 7. Any other information about the applicant and the key personnel that the director may require that reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and
 8. The full name and business address of any member of the local governing body or planning commission in which the solid waste management facility is located or proposed to be located, who holds an equity interest in the facility.

"Equity" means both legal and equitable interests.

"Key personnel" means the applicant itself and any person employed by the applicant in a managerial capacity, or empowered to make discretionary decisions, with respect to the solid waste or hazardous waste operations of the applicant in Virginia, but shall not include employees exclusively engaged in the physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous waste and such other employees as the director may designate by regulation. If the applicant has not previously conducted solid waste or hazardous waste operations in Virginia, the term also includes any officer, director, partner of the applicant, or any holder of 5.0% or more of the equity or debt of the applicant. If any holder of 5.0% or more of the equity or debt of the applicant or of any key personnel is not a natural person, the term includes all key personnel of that entity, provided that where such entity is a chartered lending institution or a reporting company under the Securities Exchange Act of 1934 (15 USC § 78a et seq.), the term does not include key personnel of such entity. Provided further that the term means the chief executive officer of any agency of the United States or of any agency or political subdivision of the Commonwealth, and all key personnel of any person, other than a natural person, that operates a landfill or other facility for the disposal, treatment, or storage of nonhazardous solid waste under contract with or for one of those governmental entities.

"Land clearing activities" means the removal of flora from a parcel of land.

"Land clearing debris" means vegetative waste resulting from land clearing activities.

"Landscape maintenance" means the care of lawns, shrubbery, and vines, and includes the pruning of trees.

"Leachate" means a liquid that has passed through or emerged from solid waste and contains soluble, suspended or miscible materials from such waste. Leachate and any material with which it is mixed is solid waste; except that leachate that is pumped from a collection tank for transportation to disposal in an off-site facility is regulated as septage, and leachate discharged into a wastewater collection system is regulated as industrial waste water.

"Mulch" means woody waste consisting of stumps, trees, limbs, branches, bark, leaves and other clean wood waste which has undergone size reduction by grinding, shredding, or chipping, and is distributed to the general public for landscaping purposes or other horticultural uses except composting as defined and regulated under this chapter or the Solid Waste Management Regulations, 9 VAC 20-80-10 et seq.

"Off-site" means any site that does not meet the definition of on-site as defined in this part.

"On-site" means the same or geographically contiguous property, which may be divided by public or private right-of-way, provided the entrance and exit to the facility are controlled by the owner or the operator of the facility. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

"Open dump" means a site on which any solid waste is placed, discharged, deposited, injected, dumped, or spilled so as to create a nuisance or present a threat of a release of harmful substances into the environment or present a hazard to human health.

"Owner of real property" means a person, persons or legal entity who holds title to a parcel of real property, and, for the purpose of this chapter, any person, persons or legal entity who holds more than 5.0% of the stock or substance of a company or corporation that holds title to a parcel of real property.

"Permit by rule" means provisions of the regulations stating that a facility or activity is deemed to have a permit if it meets the requirements of the provision.

"Putrescible waste" means solid waste which contains organic material capable of being decomposed by micro-organisms and causes odors.

"Runoff" means any rainwater, wastewater, leachate, or other liquid that drains over land from any part of the solid waste management facility.

"Runon" means any rainwater, wastewater, leachate, or other liquid that drains over land onto any part of the solid waste management facility.

"Solid waste management facility" means a site used for planned treating, long term storage, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units. For the purposes of this chapter only, "long term storage" shall be deemed to occur if during any period of 30 consecutive calendar days the site was not free of solid waste.

"Structural roadway prism" means the line of repose from the shoulder break to the shoulder break of the roadway, usually a 1:1 slope.

"Vegetative waste" means decomposable materials generated by yard and lawn care or land clearing activities and includes, but is not limited to, leaves, grass trimmings, woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps.

"Vegetative waste management facility" means a solid waste management facility that manages vegetative waste.

"Yard waste" means decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed six inches in diameter. (Note: Yard wastes are also vegetative waste; however, the terms are not interchangeable because vegetative wastes may include wastes that are not yard wastes.)

"Yard waste compost" means a stabilized organic product produced from yard waste by a controlled aerobic decomposition process in such a manner that the product can be handled, stored, and/or applied to the land so that it does not pose a present or potential hazard to human health or the environment.

"Yard waste composting" means the controlled aerobic yard waste decomposition process by which yard waste compost is produced.

"Yard waste composting facility" means an engineered facility for composting of yard waste which is so located, designed, constructed, and operated to isolate, process, and manage the yard waste and yard waste compost so that it does not pose a present or potential hazard to human health or the environment.

PART II. PURPOSE AND APPLICABILITY.

9 VAC 20-101-20. Purpose.

The purpose of these regulations is to establish appropriate standards for siting, design, construction, operation and closure, and expedited permitting procedures pertaining to certain vegetative waste management facilities, including those for yard waste composting. Further, these regulations provide reasonable exemptions from the permitting requirements contained in the Virginia Solid Waste Management Regulations (9 VAC 20-80-10 et seq.), both procedural and substantive, in order to encourage the development of vegetative waste management and yard waste composting facilities as required by subsections I, K, and L of § 10.1-1408.1 of the Code of Virginia.

9 VAC 20-101-30. Applicability.

A. The Virginia Waste Management Act (Chapter 14 (§ 10.1-1400 et seq.) of Title 10.1 of the Code of Virginia) prohibits any person from operating a facility for the treatment, storage, or disposal of nonhazardous solid waste without a permit from the director. Except as provided in Part III (9 VAC 20-101-60 et seq.), vegetative waste is nonhazardous solid waste, and facilities that treat, store or dispose of vegetative waste shall not be operated by any person who does not hold a permit for its operation from the director. All vegetative waste management facilities may be permitted as solid waste management facilities under the Solid Waste Management Regulations, 9 VAC 20-80-10 et seq. The regulations herein provide alternate, abbreviated requirements for obtaining a permit from the director, and they apply to vegetative waste management facilities provided:

1. Except as provided in Part IV (9 VAC 20-101-110 et seq.), the vegetative wastes are not combined with other refuse, sludges, animal manures, or other solid wastes controlled by the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.), and
2. Except as provided in Part IV, the vegetative waste is not managed atop a partially or fully closed solid waste disposal unit at a solid waste disposal facility.

B. Persons who do not meet the conditions of subsection A of this section and are not otherwise exempted under Part III (9 VAC 20-101-60 et seq.) shall manage their waste in accordance with all provisions of the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 et seq.

9 VAC 20-101-40. Consequence of failure to comply with provisions.

In the event that an owner or operator of an agricultural operation or vegetative waste management facility operating under these exemptions violates any provisions of that exemption, the owner or operator shall lose that exemption and become subject to all the requirements of this chapter and applicable requirements of the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 et seq.

9 VAC 20-101-50. Relationship to other regulations.

A. This chapter supersedes, replaces and repeals all existing previous regulations of the board adopted as the Yard Waste Composting Facility Regulations (9 VAC 20-100-10 et seq.).

B. This chapter does not affect the Virginia Solid Waste Management Regulations (9 VAC 20-80-10 et seq.), except that persons subject to and in compliance with this chapter are exempt from the Solid Waste Management Regulations only for those activities covered by this chapter.

C. Persons subject to this chapter are subject to applicable provisions of the Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 et seq.).

D. All vegetative waste management facilities that exist on January 7, 1998, and are operated under a permit by rule under the provisions of the Yard Waste Composting Facility Regulations (9 VAC 20-100-10 et seq.) may continue to operate under the terms of that permit by rule until its closure plan is amended, terminated, or the owner or operator otherwise loses permit by rule status.

E. Section 10.1-1408.2 of the Code of Virginia requires certain employees of solid waste management facilities be certified by the Board for Waste Management Facility Operators and that certain facilities be under the direct supervision of an operator certified by the Board for Waste Management Facility Operators. Nothing in this chapter shall be interpreted so as to conflict with the statute. The Virginia Waste Management Board interprets the statute to apply only to permitted facilities.

F. Within three years after January 7, 1998, the department shall perform analysis on this chapter and provide the Virginia Waste Management Board with a report on the results. The analysis shall include:

1. The purpose and need for the chapter;
2. Alternatives which would achieve the stated purpose of this chapter in a less burdensome and intrusive manner;
3. An assessment of the effectiveness of this chapter;
4. The results of a regulatory review of current state and federal statutory and regulatory requirements, including identification and justification of this chapter's requirements which exceed federal requirements; and
5. The results of a review as to whether this chapter is clearly written and easily understandable by affected parties.

Upon review of the department's analysis, the Virginia Waste Management Board shall confirm the need to:

-
1. Continue this chapter without amendment;
 2. Repeal this chapter; or
 3. Amend this chapter.

The Virginia Waste Management Board will authorize the department to initiate the applicable regulatory process and to carry out the decision of the Virginia Waste Management Board if amendment or repeal of this chapter is warranted.

PART III.

EXEMPTIONS FOR SPECIAL VEGETATIVE WASTE MANAGEMENT FACILITIES TO THESE REGULATIONS OR TO THE REQUIREMENT TO HAVE A PERMIT.

9 VAC 20-101-60. General exemptions.

The Code of Virginia and previous regulations adopted by the board included exemptions from some requirements of the board regarding specified activities involving vegetative waste. Nothing contained in these Vegetative Waste Management and Yard Waste Composting Regulations shall be construed to interfere with those exemptions or add requirements or conditions to those existing exemptions. These exemptions include:

1. Solid waste management practices that involve only the placing of stumps and other land clearing debris from agricultural or forestal activities at the site of the clearing that do not receive waste from off-site and that do not create an open dump, hazard or public nuisance are exempt from all requirements of this chapter and of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.).
2. Solid waste management practices that involve only the on-site placing of solid waste from mineral mining activities at the site of those activities and in compliance with a permit issued by the Department of Mines, Minerals and Energy, that do not include any municipal solid waste, are accomplished in an environmentally sound manner, and that do not create an open dump, hazard or public nuisance are exempt from all requirements of this chapter and of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.).
3. Owners or operators of agricultural operations or owners of the real property or those authorized by owners of the real property who compost only the vegetative wastes and yard waste generated on said property shall be exempt from all other provisions of this chapter and from all requirements of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) as applied to the composting activity providing that:
 - a. All decomposed vegetative waste and compost produced is utilized on said property;
 - b. No vegetative waste or other waste material generated from sources other than said property is received;
 - c. All applicable standards of local ordinances that govern or concern vegetative waste handling, composting, storage or disposal are satisfied; and
 - d. They pose no nuisance or present or potential threat to human health or the environment.
4. Owners or operators of agricultural operational activities which accept yard wastes generated off-site shall be exempt from all other provisions of this chapter and from all requirements of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) as applied to the composting activities providing that:
 - a. The total time for the composting process and storage of material that is being composted or has been composted shall not exceed 18 months prior to its field application or sale as a horticultural or agricultural product;
 - b. No waste material other than yard waste is received;
 - c. The total amount of yard waste received from off-site never exceeds 6,000 cubic yards in any 12-month period;
 - d. All applicable standards of local ordinances that govern or concern yard waste handling, composting, storage or disposal are satisfied;
 - e. They pose no nuisance or present or potential threat to human health or the environment; and
 - f. The owner submits a complete certification letter in accordance with 9 VAC 20-101-90 A before receiving any waste at the site.
5. Owners or other persons authorized by the owner of real property who receive only yard waste generated off-site for the purpose of producing compost on said property shall be exempt from all other provisions of this chapter and from all requirements of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) as applied to the composting activity provided that:

-
- a. Not more than 500 cubic yards of yard waste generated off-site is received at the owner's said property in any consecutive 12-month period;
 - b. No compensation will be received, either directly or indirectly, by the owner or other persons authorized by the owner of said property from parties providing yard waste generated off said property;
 - c. All applicable standards of local ordinances that govern or concern yard waste handling, composting, storage or disposal are satisfied; and
 - d. They pose no nuisance or present or potential threat to human health or the environment.

6. Mulch shall be exempt from all other provisions of this chapter and from all requirements of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) provided it is reclaimed or temporarily stored incidental to reclamation and is not accumulated speculatively and is managed without creating an open dump, hazard or a public nuisance.

9 VAC 20-101-70. Exemption of small waste disposal units for vegetative wastes from land clearing.

A. Owners of real property who operate small waste disposal units that qualify under all the conditions of this section shall be exempt from other provisions of this chapter as applied to those units. They shall likewise be exempt from the requirements of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) except for those sections cited below. No person other than the owner of the real property shall be exempt under this section. All owners of the real property who hold title to property at the time the disposal unit is initially opened or during the time the unit remains open (limited to two calendar years below) shall, in the exercise of this exemption, accept responsibility for maintaining compliance of the unit with all requirements of this chapter as set out in this exemption. The owner agrees that he shall not sell, give or otherwise transfer the responsibility for the unit's compliance to any other party throughout its active life, the post-closure care period, and the corrective action period, and that he shall remain the principal party responsible for the compliance of the unit with this chapter.

Only units that are in compliance with all requirements of this section shall qualify, and waste disposal units that are not in compliance with all requirements of this section shall not qualify or shall cease to qualify. Units that qualify for this exemption shall comply with the following requirements.

- 1. No waste that is not a vegetative waste or yard waste as defined in 9 VAC 20-101-10 shall be placed in the disposal unit. Grass trimmings and bulk leaves shall not be placed in the disposal unit.
- 2. The waste disposal unit shall not be larger than 0.50 acres in size.
- 3. The waste disposal unit shall not be located within 1,000 feet of any other waste disposal unit of any type, including other disposal units exempted by this chapter.
- 4. The waste disposal unit shall not be located within 150 feet of any existing building or planned building. The waste disposal unit shall not be located within 50 feet of any existing or planned subdivision lot that may be used for the erection of a building.
- 5. The waste disposal unit shall not be located within 100 feet of a flowing stream; body of water; any well, spring, sinkhole, or unstable geologic feature. Also, it shall not be located within 200 feet of any groundwater source of drinking water.
- 6. The waste disposal unit shall be constructed to separate all waste by at least two feet vertically from the seasonal high water table.
- 7. The waste disposal unit should not obstruct the scenic view from any public road and should be graded to present a good appearance.
- 8. Mounding of the waste disposal unit shall not reach an elevation more than 20 feet above the original elevation of the terrain before the disposal began. (Note: the elevation of the original terrain should be based on the general area and not the bottom of ravines and small depressions in the disposal area.)
- 9. The waste received by the waste disposal unit shall be limited to the following:
 - a. Waste generated on-site;
 - b. Waste generated by clearing the path of a roadway or appurtenances to the roadway when buried within the right-of-way of the roadway (waste shall not be buried in the structural roadway prism) or adjacent land under a permanent easement and the terms of the easement incorporate the construction of the disposal unit; and

c. Waste from property that is owned by the owner of the disposal unit, within the same construction project, and generated not more than two miles from the unit.

10. The waste disposal unit shall be closed two calendar years from the date it first receives waste. The closure shall include cover with two feet of compacted soil, grading for good appearance with slopes that prevent erosion, and seeding or revegetation. During the life of the unit, sufficient earth should be applied periodically to prevent excessive subsidence of the waste disposal unit when closed. Sides of the finished unit shall be sloped to prevent erosion, and slopes shall not be steeper than one vertical foot to three horizontal feet.

11. The location plat and legal description, as set out in subdivision 16 of this subsection, of all units that are not located wholly within the bed or right-of-way of a public road shall be recorded in the deed book for the property in the court of record prior to the first receipt of waste. Waste disposal shall not be allowed within the structural roadway prism.

12. The owner shall maintain continuous control of access to all disposal units from the time they are opened until they are closed in accordance with this chapter. The owner shall prevent fires and provide standby equipment and supplies sufficient to easily suppress a fire. Brush and small limbs that might provide tinder for a fire shall be covered at the end of the work day with one foot of soil.

13. The owner shall not be exempt from the groundwater monitoring and corrective action requirements of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.) to include required monitoring during the post-closure period. The owner of a small waste disposal unit shall comply in all respects with the groundwater monitoring and corrective action requirements contained in 9 VAC 20-80-260 B 11, C 12, C 13, D and 9 VAC 20-80-310.

14. The owner shall not be exempt from the decomposition gas monitoring and venting requirements of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.). The owner of a small waste disposal unit shall comply in all respects with the decomposition gas monitoring and venting requirements as established in 9 VAC 20-80-260 B 9 and 9 VAC 20-80-280.

15. The owner shall not be exempt from any requirement of the Financial Assurance Regulations For Solid Waste Disposal Facilities, 9 VAC 20-70-10 et seq., and shall comply with all financial assurance requirements.

16. At least six weeks before beginning construction of a waste disposal unit, the owner of the real property shall notify in writing the director, the governing board of the city, county or town wherein the property lies, and all property owners whose parcel will abut the area of the proposed disposal unit. The notice shall give the names and legal addresses of the owners, the type of unit to be developed, and the projected date of initial construction of the unit. The owner shall include a plat and legal description of the disposal unit's metes and bounds prepared and stamped by a Virginia licensed land surveyor. The plat and description shall follow all standard practice such as inclusion of the nearest existing intersection of state roads and existing fixed survey markers in the vicinity.

Note: Unless otherwise designated, all monitoring and reporting requirements shall begin at the initiation of the unit's operations and all reports shall be sent to the department and the chief executive of the local government.

B. The use of small amounts of brush used on-site with filter cloth to form a barrier for erosion control shall not be considered a waste disposal unit or require a permit when the barrier is constructed in accordance with the approved erosion control plan for the site.

9 VAC 20-101-80. Exemptions to permitting requirements.

A. The Code of Virginia includes exemptions from permitting requirements of the board for specified activities involving vegetative waste. Persons entitled to these exemptions are not required to comply with the permitting requirements of Part V (9 VAC 20-101-160 et seq.) of this chapter or to have a permit under the Virginia Solid Waste Management Regulations (9 VAC 20-80-10 et seq.). Unless exempted by other provisions of this chapter or other regulations of the board, they are required to comply with facility standards contained in Part IV (9 VAC 20-101-110 et seq.) of this chapter.

B. Any person who removes trees, brush, or other vegetation from land used for agricultural or forestal purposes is exempted from the requirement to obtain a permit for that operation under this chapter or the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 et seq., provided that such material is deposited or placed on the same or other property of the same landowner from which such materials were cleared.

C. Owners or operators of agricultural operations which include yard waste composting units are not required to receive a permit for the construction or operation of those yard waste composting units under this chapter or the Virginia Solid Waste Management Regulations, 9 VAC 20-80-10 et seq., provided that:

-
1. The composting area is located not less than 300 feet from a property boundary of a parcel owned or controlled by another person, is located not less than 1,000 feet from an occupied dwelling not located on the same property as the composting area, and is not located within an area designated as a flood plain;
 2. The agricultural operation has at least one acre of ground suitable to receive yard waste for each 150 cubic yards of finished compost generated;
 3. The total time for the composting process and storage of material that is being composted or has been composted shall not exceed 18 months prior to the field application or sale as a horticultural or agricultural product;
 4. The owner and operator of any agricultural operation that receives in any 12-month period (consecutive) more than 6,000 cubic yards of yard waste generated from property not within the control of the owner or the operator shall submit by July 15 each year to the director an annual report in accordance with 9 VAC 20-101-100 describing the volume and types of yard waste received for composting by the operation between July 1 and June 30 of the preceding consecutive 12 months and shall certify that the yard waste composting facility complies with local ordinances; and
 5. Prior to the receipt of yard waste generated off-site, the owner or operator of the agricultural operation submits to the director a certification letter in compliance with 9 VAC 20-101-90 B.

9 VAC 20-101-90. Contents of certification letter.

A. Prior to the receipt of yard waste generated off-site, the owner or operator of the agricultural operation intending to operate under the exemption contained in subdivision 4 of 9 VAC 20-101-60 shall submit to the director a certification letter which shall include all of the following:

1. The name and address of the agricultural operation owner or operator;
2. The name, physical location and mailing address of the agricultural operation;
3. The location of the yard waste composting facility at the address specified pursuant to subdivision 2 of this subsection and the amount of land available for receipt of yard waste;
4. A statement by the owner or operator that the owner or operator agrees to receive no solid waste other than yard waste;
5. A statement by the owner or operator that no yard waste that is received will remain on-site, in any combination of processing time and storage time, for more than 18 months.
6. A statement by the owner or operator that at least 1.0 acre of suitable ground per 150 cubic yards of finished compost generated annually will be reserved at the site to receive the yard waste;
7. A statement by the owner or operator that the total amount of yard waste received from off-site generators will not exceed 6,000 cubic yards in any consecutive 12-month period;
8. A statement by the owner or operator that the yard waste composting facility at the agricultural operation specified pursuant to subdivision 2 of this subsection is not within an area subject to base floods, is located no less than 300 feet from a property boundary, is located no less than 1,000 feet from any occupied dwelling not located on the same parcel;
9. The following statement signed by the owner or operator:

"I certify that I have personally examined and am familiar with the information submitted in this letter and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete."

B. Prior to the receipt of yard waste generated off-site, the owner or operator of the agricultural operation intending to operate under the exemption contained in 9 VAC 20-101-80 C shall submit to the director a certification letter which shall include all of the following:

1. The name and address of the agricultural operation owner or operator;
2. The name, physical location and mailing address of the agricultural operation;
3. The location of the yard waste composting facility at the address specified pursuant to subdivision 2 of this subsection and the amount of land available for receipt of yard waste;
4. A statement by the owner or operator that the owner or operator agrees to receive no solid waste other than yard waste;
5. A statement by the owner or operator that no yard waste that is received will be remain on-site, in any combination of processing time and storage time, for more than 18 months.

6. A statement by the owner or operator that at least 1.0 acre of suitable ground per 150 cubic yards of finished compost generated annually will be reserved at the site to receive the yard waste;

7. A statement by the owner or operator that the total amount of yard waste received from off-site generators will not exceed 6,000 cubic yards in any consecutive 12-month period, or a statement by the owner that he will file an annual report in accord with 9 VAC 20-101-100 each and every year of its operation and that operation under the exemption is contingent upon prompt and complete filing of the annual report;

8. A statement by the owner or operator that any yard waste management sites at the agricultural operation specified pursuant to subdivision 2 of this subsection is not within an area subject to base floods, is located no less than 300 feet from a property boundary, is located no less than 1,000 feet from any occupied dwelling not located on the same parcel;

9. The following statement signed by the owner or operator:

"I certify that I have personally examined and am familiar with the information submitted in this letter and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete."

YARD WASTE COMPOSTING NOTICE OF INTENT AND CERTIFICATION

Name of the Owner or Operator:

Mailing Address:

Composting Site Address:

Telephone Number:

Telephone Number:

COMPOSTING SITE CONDITIONS

Agricultural operations receiving only yard waste for composting are exempt from permitting requirements if the following conditions are met:

The area designated for composting is located greater than 300 feet from all property boundaries;

The area designated for composting is located more than 1,000 feet from any occupied dwelling not located on the same property as the composting area;

The area designated for composting is not located within an area designated as a flood plain as defined in § 10.1-600 of the Code of Virginia;

The agricultural operation has, at least, one acre of ground suitable to receive yard waste for each 150 cubic yards of finished compost generated annually; and

The total time for the composting process and storage of the material that is being composted or has been composted shall not exceed 18 months prior to its field application or sale as a horticultural or agricultural product.

I hereby certify that the site designated for this yard waste composting operation meets each of the above requirements for an agricultural exemption from the permitting requirements.

Signature of the Owner or Operator:

Date:

In addition to the above certification, an owner or operator of any agricultural operation that receives more than 6,000 cubic yards of yard waste in any consecutive twelve months from property not within the control of the owner or operator shall complete the certification on the reverse side of this form.

Certification required for owners or operators of agricultural operations that receive more than 6,000 cubic yards of yard waste generated annually from property not within control of owner or operator.
--

The undersigned certifies that the location and operation of the composting facility complies with all local ordinances.
--

Signature or the owner or operator:

Type or printed name:

Title:

Date:

Note: Section 10.1-1408.1 K of the Code of Virginia requires that owners or operators of composting facilities receiving more than 6,000 cubic yards of yard wastes generated from property not within control of the owner or operator submit an annual report describing the volume and types of yard waste received to operate the composting facility. Form DEQ-YW-2 shall be submitted to the director by July 15 for the preceding 12 months.

(Provided in accordance with § 10.1-1408.1 K of the Code of Virginia)

9 VAC 20-101-100. Contents of annual report.

Owners or operators of agricultural operation which include yard waste composting units who intend to operate under the exemption of 9 VAC 20-101-80 C shall submit by July 15 each year to the director an annual report on the following form describing accurately and completely the volume and types of yard waste received for composting by the operation between July 1 and June 30 of the preceding 12 months and shall certify that the yard waste composting facility continues to comply with local ordinances.

YARD WASTE COMPOSTING ANNUAL REPORT

Owners or operators of an agricultural composting operation receiving only yard waste, who are exempt from permitting requirements, and who may receive more than 6,000 cubic yards of yard waste generated from property not within control of the owner or operator in any twelve months period, shall submit to the director an annual report describing the volume and types of yard waste received for composting. Completion and filing of this form by July 15 will constitute compliance with the statutory requirement for the preceding twelve months, July 1 through June 30.

Year Ending:

Name of owner or operator:

Address:

Telephone Number:

Type of Waste	Volume (Cubic Yards)
Leaves	
Grass Trimmings	
Brush	
Wood Chips	
Shrub and Tree Trimmings	
Roots and Stumps (Less than 6 inches in diameter)	
Total	

Signature or the owner or operator:

Type or printed name:

Title:

Date:

PART IV.
STANDARDS FOR ALL VEGETATIVE WASTE MANAGEMENT FACILITIES.

9 VAC 20-101-110. Compliance.

Vegetative waste management facilities, including yard waste composting facilities, shall comply with the requirements of this part unless otherwise exempted by other provisions in this chapter.

9 VAC 20-101-120. Siting.

A. Yard waste composting and vegetative waste management facilities shall not be sited or constructed in areas subject to base floods. No facility shall be closer than 50 feet to any regularly flowing stream.

B. Yard waste composting and vegetative waste management facilities shall not be located in areas which are geologically unstable or where the site topography is heavily dissected.

C. Acceptable yard waste composting or vegetative waste management facility sites must have sufficient area and terrain to allow for control and proper management of runoff, runoff, and leachate.

D. The boundary of a yard waste composting or vegetative waste management facility shall not be located within 200 feet of any dwelling, a health care facility, school, or similar type of public institution. The director may reduce this set-back distance if the owner or operator successfully shows that a nuisance will not be created owing to the operation of such facility.

E. A yard waste composting or vegetative waste management facility shall not be located atop a closed waste disposal unit located on property whose deed or some other instrument which is normally examined during title searches contains a notation required under 9 VAC 20-80-250 or 9 VAC 20-80-270I of the Virginia Solid Waste Management Regulations with the following exceptions:

1. For a closed unpermitted waste disposal unit at a solid waste management facility closed prior to December 1988, the following conditions shall apply:
 - a. The yard waste composting or vegetative waste management facility does not pose a present or potential hazard to human health or the environment;
 - b. All siting, design and construction, operating and closure standards of this part have been satisfied;
 - c. The owner or operator of the yard waste composting or vegetative waste management facility successfully satisfies all provisions of Part V (9 VAC 20-101-160 et seq.).
2. For a waste disposal unit closed prior to December 1988 which is located at a solid waste management facility for which a permit has been issued and that is operating under the provisions of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.), the following conditions shall apply:
 - a. The yard waste composting or vegetative waste management facility does not pose a present or potential hazard to human health or the environment;
 - b. All siting, design and construction, operating and closure standards of this part have been satisfied;
 - c. The owner or operator of the yard waste composting or vegetative waste management facility successfully demonstrates to the director that all provisions of Part V (9 VAC 20-101-160 et seq.) have been satisfied.
 - d. The closure plan for the solid waste management facility is amended to incorporate the operating and approved closure plans for the yard waste composting or vegetative waste management facility. The owner or operator of the solid waste management facility must request the amendment to the solid waste facility closure plan in accordance with 9 VAC 20-80-620 of the Solid Waste Management Regulations.
3. For waste disposal units closed after December 1988 and under the provisions of the Solid Waste Management Regulations (9 VAC 20-80-10 et seq.), the following conditions shall apply:
 - a. The yard waste composting or vegetative waste management facility does not pose a present or potential hazard to human health or the environment;
 - b. The existing permit issued for the solid waste management facility at which the closed waste disposal unit is located is amended to include any changes that may be required as a result of the operation of the vegetative or yard waste composting operation. The owner or operator must request the permit amendment in accordance with Part VII (9 VAC 20-80-480 et seq.) of the Solid Waste Management Regulations.

9 VAC 20-101-130. Design and construction.

A. A handling area and equipment shall be provided to segregate waste other than vegetative waste and noncompostable components in the vegetative waste and to store such components in properly constructed containers prior to their disposal at a permitted solid waste disposal facility.

B. If the yard waste composting or vegetative waste management facility is located in any area where the seasonal high water table lies within 24 inches of the ground surface, the composting and handling areas shall be hard-surfaced and diked or bermed to prevent entry of runoff or escape of runoff, leachate, and other liquids, and a sump with either a gravity discharge to atmosphere or an adequately sized pump located at the low point of the hard-surfaced area shall be provided to convey liquids to a waste water treatment (including but not limited to recirculation), disposal or holding facility.

C. Sound engineering controls shall be incorporated into design of yard waste composting and vegetative waste management facilities located on sites with:

1. Springs, seeps, and other groundwater intrusions;
2. Gas, water, or sewage lines under the active areas; or electrical transmission lines above or below the active areas.

D. Areas used for mixing, composting, curing, screening, and storing shall be graded to prevent runoff, collect runoff, and provided with a drainage system to route the collected runoff to a waste water storage, treatment (including but not limited to recirculation), or disposal facility.

E. A buffer zone with the minimum size of 100 feet shall be incorporated in the yard waste composting or vegetative waste management facility design between the facility boundaries and process operations.

F. Roads serving the unloading, handling, composting, and storage areas shall be usable under all weather conditions.

9 VAC 20-101-140. Operations.

A. The addition of any other solid waste including but not limited to hazardous waste, regulated medical waste, construction waste, debris, demolition waste, industrial waste, or other municipal solid waste to the vegetative waste received at the yard waste composting or vegetative waste management facility is prohibited, except that the materials which are excluded from regulation as solid waste under 9 VAC 20-80-150 F of the Solid Waste Management Regulations may be combined with yard waste for the purpose of producing compost under the provisions of Parts II (9 VAC 20-101-20 et seq.) and III (9 VAC 20-101-60 et seq.) of this chapter.

B. Solid waste other than vegetative waste shall be segregated from the vegetative waste and promptly removed from the yard waste composting or vegetative waste management facility site for proper management at a solid waste management facility permitted by the department. Segregated solid waste shall not remain at the yard waste composting or vegetative waste management facility at the end of the working day unless it is stored in containers specifically designed for storage of solid waste. Containerized putrescible waste shall not remain at the yard waste composting or vegetative waste management facility for more than seven days. Containerized nonputrescible waste shall be collected for disposal at intervals of less than 30 days.

C. Access to a yard waste composting or vegetative waste management facility that has not been closed in accordance with 9 VAC 20-101-150 shall be permitted only when an attendant is on duty.

D. Dust, odors, and vectors shall be controlled so they do not constitute nuisances or hazards.

E. The owner or operator shall prepare, implement, and enforce a safety program and a fire prevention and suppression program designed to minimize hazards.

F. Open burning shall be prohibited on the waste management facility property.

G. Fugitive dust and mud deposits on main off-site roads and access roads shall be minimized at all times to limit nuisances.

H. Leachate or other runoff from a yard waste composting or vegetative waste management facility shall not be permitted to drain or discharge directly into surface waters.

I. Designed buffer zones shall be maintained.

9 VAC 20-101-150. Closure.

A. The owner or operator shall close his yard waste composting or vegetative waste management facility in a manner that minimizes the need for further maintenance. All waste and residues, including unfinished compost, shall be removed and

disposed in a permitted solid waste management facility. Any finished compost present at the time of closure shall be removed and marketed or utilized in accordance with the operational plan for the facility, or disposed in a permitted solid waste management facility. If the owner or operator is unable or unwilling to remove all compost, the facility shall close in accordance with Part V (9 VAC 20-80-240 et seq.) of the Solid Waste Management Regulations.

B. The following items shall be considered in development of the closure plan and an amendment of plan:

1. The owner or operator of a yard waste composting or vegetative waste management facility shall have a written closure plan. This plan shall identify the steps necessary to completely close the facility at the time when its operation is most extensive. The closure plan shall include, at least a schedule for final closure including, as a minimum, the anticipated date when wastes will no longer be received, the date when completion of final closure is anticipated, and intervening milestone dates which will allow tracking of the progress of closure.
2. The closure plan shall be submitted to the department prior to the construction and operation of the yard waste composting or vegetative waste management facility, unless the owner or operator is exempt from the requirements of the Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 et seq.), in which case the closure plan shall be submitted no later than 30 days from the date the yard waste composting or vegetative waste management facility commences operation. The department shall review each closure plan no later than 90 days from receipt. If the department finds plan to be deficient, it shall cite the reasons for the finding and state what amendments are necessary. If found to be deficient, the closure plan shall be amended by the owner or operator within 90 days of the director's finding. If the amended closure plan continues to be deficient, the department will amend the plan to meet the closure performance requirements within 90 days.
3. The owner or operator may amend his closure plan at any time during the active life of the yard waste composting or vegetative waste management facility. The owner or operator shall so amend his plan any time changes in operating plans or facility design affects the closure plan. Amended plans shall be submitted to the department within 15 days of such changes. The director may require that amended plans be modified to meet the closure requirements.
4. At any time during the operating life of the yard waste composting or vegetative waste management facility, the closure plan shall be made available to the department upon request of the director.
5. The owner or operator shall submit an updated closure plan to the director at least 180 days before the date he expects to begin final closure. The director will modify, approve, or disapprove the plan within 90 days of receipt. If the closure plan is disapproved, the owner or operator shall modify the plan to meet the closure requirements. If an owner or operator plans to begin closure within 180 days after January 7, 1998, he shall submit the necessary plans on January 7, 1998.

C. The owner or operator shall complete closure activities in accordance with the approved closure plan and within 12 months after receiving the final volume of wastes. The director may approve a longer closure period if the owner or operator can demonstrate that the required or planned closure activities will, of necessity, take longer than 12 months to complete; and that he has taken all necessary steps to eliminate any significant threat to human health and the environment from the unclosed but inactive yard waste composting or vegetative waste management facility.

D. At the beginning of the closure activities, the owner or operator shall post at least one sign notifying all persons of the closing, and providing a notice prohibiting further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.

E. A yard waste composting or vegetative waste management facility shall be deemed properly closed when the above actions have been taken by the owner or operator and a representative of the department verifies same by an on-site inspection and provides a written confirmation that closure has been completed properly.

PART V.
FACILITY PERMIT BY RULE.

9 VAC 20-101-160. Permit by rule provisions.

Notwithstanding any provisions of Part VII (9 VAC 20-80-480 et seq.) of the Virginia Solid Waste Management Regulations, the owner or operator of a vegetative waste management facility which accepts only vegetative wastes as defined in 9 VAC 20-101-10 shall be deemed to have a solid waste management facility permit if the owner or operator:

1. Demonstrates to the director the legal control over the site for the useful life of the vegetative waste management facility. A documentation of an option to purchase will be considered as a temporary substitute for a deed; however, the true copy of a deed shall be provided to the department before construction begins.
2. Notifies the director of his intent to operate such a facility and provides the department:

-
- a. The certification from the governing body of the county, city, or town in which the facility is to be located that the location and operation of the facility are consistent with all applicable ordinances; and
 - b. A disclosure statement as defined in 9 VAC 20-101-10 as required under § 10.1-1408.1 B of the Code of Virginia.
3. Provides the director with a certification that the facility meets the siting standards of 9 VAC 20-101-120.
 4. Furnishes to the director a certificate signed by a professional engineer licensed to practice by the Commonwealth that the facility has been designed and constructed in accordance with the standards of 9 VAC 20-101-130. Such certificate shall contain no qualifications or exceptions from the requirements and plans.
 5. Submits to the director an operational plan describing how the standards of 9 VAC 20-101-140 will be met and the procedure for marketing or utilizing the finished compost.
 6. Submits to the director a closure plan describing how the standards of 9 VAC 20-101-150 will be met.
 7. Submits to the director the proof of financial responsibility if required by the Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 et seq.).

9 VAC 20-101-170. Change of ownership.

A permit by rule may not be transferred by the permittee to a new owner or operator. However, when the property transfer takes place without proper closure, the new owner or operator shall notify the department of the sale and fulfill all the requirements contained in 9 VAC 20-101-160 with the exception of subdivision 7 of 9 VAC 20-101-160 within 30 days of the date of the sale. If required by the Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 et seq.), financial assurance proof shall be posted by the new owner or operator within 30 days from the date of the sale; provided however, that until the actual posting of such financial assurance proof, the old owner or operator shall not be relieved of his responsibility to post financial assurance. Upon presentation of the financial assurance proof required by subdivision 7 of 9 VAC 20-101-160 by the new owner or operator, the department will release the old owner or operator from his closure and financial responsibilities under the Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 et seq.) and acknowledge existence of the new permit by rule in the name of the new owner or operator.

9 VAC 20-101-180. Facility modifications.

The owner or operator of a vegetative waste management facility may modify the design and operation of the facility by furnishing the department a new certificate required by subdivision 4 of 9 VAC 20-101-160 and a new operational plan required by subdivision 5 of 9 VAC 20-101-160. Whenever modifications in the design or operation of the facility affect the provisions of the approved closure plan, the owner or operator shall submit an amended closure plan in accordance with the requirements of 9 VAC 20-101-150. Should there be an increase in the closure costs, the owner or operator shall submit a new proof of financial responsibility as required by the Financial Assurance Regulations of Solid Waste Facilities (9 VAC 20-70-10 et seq.).

PART VI.
ENFORCEMENT.

9 VAC 20-101-190. Loss of permit by rule status.

In the event that a vegetative waste management facility operating under a permit by rule violates any provisions of this chapter in a substantive manner, the owner or operator of the facility will be considered to be operating an unpermitted facility as provided for in 9 VAC 20-80-80 of the Virginia Solid Waste Management Regulations and shall be required to either obtain a new permit as required by Part VII (9 VAC 20-80-480 et seq.) or close under Part V (9 VAC 20-80-240 et seq.) or VI (9 VAC 20-80-320 et seq.) of those regulations, as applicable.

9 VAC 20-101-200. Termination.

In addition to the grounds identified in § 10.1-1409 of the Code of Virginia, the director shall terminate permit by rule and shall require closure of the facility whenever he finds that:

1. As a result of changes in key personnel, the requirements necessary for a permit by rule are no longer satisfied;
2. The applicant has knowingly or willfully misrepresented or failed to disclose a material fact in his disclosure statement, or any other report or certification required under this chapter, or has knowingly or willfully failed to notify the director of any material change to the information in the disclosure statement; or
3. Any key personnel have been convicted of any of the crimes listed in § 10.1-1409 of the Code of Virginia, punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction; or has

been adjudged by an administrative agency or a court of competent jurisdiction to have violated the environmental protection laws of the United States, the Commonwealth or any other state and the director determines that such conviction or adjudication is sufficiently probative of the permittee's inability or unwillingness to operate the facility in a lawful manner.

9 VAC 20-101-210. Enforcement.

Loss or termination of a permit by rule under this chapter shall not preclude additional action for remediation or enforcement, including (without limitation) the assessment of civil charges or civil penalties, as is otherwise authorized by law.